

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA**

KILBRIDE INVESTMENTS LIMITED,
BUSYSTORE LIMITED IN LIQUIDATION,
and BERGFELD CO. LIMITED,

Plaintiffs,

vs.

Case No. 13-CV-5195 (JD)

CUSHMAN & WAKEFIELD OF
PENNSYLVANIA, INC., BLANK ROME LLP
and COZEN O'CONNOR, P.C.,

Defendants.

CUSHMAN & WAKEFIELD OF
PENNSYLVANIA, INC.,

Third-Party Plaintiff,

vs.

JFK BLVD. ACQUISITION GP LLC, CHAIM
ZEV LEIFER, and HESKEL KISH,

Third-Party Defendants.

STIPULATION OF UNDISPUTED FACTS

The Parties submit the following Statements of Undisputed Facts in connection with the trial of this matter.¹

1. Plaintiff Bergfeld Co. Limited is a United Kingdom private limited company with its principal place of business in London, England.

2. Plaintiff Busystore is a United Kingdom private limited company in liquidation in London, England. Busystore's principal place of business is in London, England.

¹ This stipulation does not address matters the admissibility of which is the subject of the currently pending motions *in limine*. The Parties agree to meet and confer regarding the inclusion of possible additional stipulated facts once the Court rules on those motions.

3. Mr. Berish Berger is a citizen of the United Kingdom. He is a director of Plaintiff Busystore, and he and his wife share ownership of that company. Mr. Berger is also a director of Plaintiff Bergfeld, sharing ultimate ownership of that entity with his siblings.

4. Defendant Cushman & Wakefield of Pennsylvania, Inc. (“C&W”) is a Pennsylvania corporation, engaged in the business of providing real estate services, including valuation services.

5. River City is an approximately 8.2 acre stretch of land, comprised of five tax parcels, and located in Center City Philadelphia stretching along JFK Boulevard and North 23rd Street and fronting on the Schuylkill River (the “River City Property”).

6. In 2006, Richard Zeghibe (“Zeghibe”) was interested in acquiring the River City property from the record owner of the Property, R&F Penn Center Associates, L.P. (“R&F Penn”).

7. Real estate businessman Ravinder Chawla (“Chawla”) was also interested in working with Zeghibe to acquire and develop the Property.

8. In March of 2006, Charles Naselsky was a real estate lawyer with the law firm of Cozen O’Connor.

9. On or about March 30, 2006, Naselsky formed the entity that would be the purchaser for the River City property, JFK Blvd. Acquisition GP, LLC (“JFK”).

10. R&F Penn and JFK entered into an Agreement of sale for the purchase of the property for \$32.5 million (the “R&F Penn Agreement”). The agreement was signed May 12, 2006 by Zeghibe as the managing member of JFK.

11. James Rappoport of Daroff Designs was retained as the architect for the River City Property project.

12. Rappoport prepared architectural designs for an envisioned 12-million square-foot multi-use development with multiple 33-60 story buildings.

13. Rappoport also prepared a zoning narrative describing the zoning and planning opportunities and constraints of the sites within the guidelines of the Philadelphia Zoning and Building Code.

14. The Rappoport Zoning Narrative addressed, among other issues, building towers over the railroad tracks via an elevated platform connecting all five parcels and envisioned the potential for a “people carrier” that would span the Schuylkill River to connect 30th Street Station with River City.

15. Rappoport created brochures and secured an animated “fly-through” of the River City development, which took the viewer on a virtual tour through the buildings.

16. On June 7, 2006, Gerald McNamara, the Managing Director of C&W’s Philadelphia office and Naselsky, acting as attorney for JFK, executed an engagement letter relating to the appraisal of the River City Property.

17. Gerald McNamara assigned preparation of the appraisal to senior appraiser Daniel McNeil.

18. In late August 2006, an individual named Eliyahu Weinstein became interested in the River City Property.

19. Weinstein’s agreement regarding the Property was formalized through a contract entitled “Nominee Agreement.”

20. JFK sought a series of extensions from R&F Penn with respect to its own purchase of the Property which required additional funds to be deposited with R&F Penn. The closing on the R&F Penn/JFK purchase of River City was extended to December 18, 2006.

21. In November of 2006, a friend of Weinstein's offered to introduce him to Chaim Leifer a real estate broker in London, UK.

22. On November 16, 2006, Weinstein, Leifer, and Berger met in Berger's home, in London, and spoke for a few hours.

23. At that meeting, Weinstein spoke about the River City Property and invited Berger to Philadelphia to meet the architect, see his presentation and consider the deal.

24. On December 6, 2006, Berger attended a meeting at Rappoport's office.

25. At the meeting, Rappoport showed a development design for the River City Property.

26. On or about December 11, 2006, the appraisal was sent to Berger in London.

27. Weinstein and Leifer, contacted Berger in the weeks following the December 6, 2006 meeting trying to get him to complete the transfer of funds.

28. On December 20, 2006 JFK's acquisition of the River City Property from R&F Penn closed.

IT IS SO STIPULATED,

Dated: January 31, 2020

/s/ Mary Kay Brown

Mary Kay Brown, Esquire
BROWN MCGARRY NIMEROFF LLC
*Attorneys for Plaintiffs, Busystore Limited in
Liquidation and Bergfeld Co. Limited*

Dated: January 31, 2020

/s/ Nathan Heller

Nathan Heller, Esquire

DLA PIPER LLP

*Attorneys for Defendant, Cushman &
Wakefield of Pennsylvania, Inc.*

Dated: January 31, 2020

/s/ Andrew Teitelman, Esquire

Andrew Teitelman, Esquire

LAW OFFICES OF ANDREW

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BLVD Acquisition GP, LLC*